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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057743
Party	Defendant Fiverr International Ltd.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Gigz Inc.,)	
)	
)	
v. Petitioner,)	Cancellation No. 92057743
)	
Fiverr International Ltd.,)	
)	
Registrant.)	
)	

ANSWER

Registrant Fiverr International Ltd. answers the Petition to Cancel as follows:

1. Registrant admits the allegations of the first two sentences of paragraph 1 of the Petition to Cancel. Exhibit B appears to be a printout of an excerpt from Registrant's website on a certain date, but Registrant otherwise denies the allegations of the third sentence of paragraph 1.

2. Registrant admits the allegations of paragraph 2 of the Petition to Cancel, except that Registrant denies that applications were filed "as a standard marks," since that terminology is not recognized or defined.

3. Registrant puts Petitioner to its proof with regard to alleged actions by the USPTO and therefore denies the allegations of paragraph 3 of the Petition to Cancel.

4. Registrant puts Petitioner to its proof with regard to alleged actions by the USPTO and therefore denies the allegations of paragraph 4 of the Petition to Cancel.

5. Registrant admits the allegations of paragraph 5 of the Petition to Cancel.

6. Registrant admits the allegations of paragraph 6 of the Petition to Cancel.

7. Registrant is without knowledge of the allegations of paragraph 7 of the Petition to Cancel and therefore denies the same.

8. Registrant is without knowledge of the allegations of paragraph 8 of the Petition to Cancel and therefore denies the same.

9. Registrant is without knowledge of the allegations of paragraph 9 of the Petition to Cancel and therefore denies the same.

10. Registrant denies the allegations of paragraph 10 of the Petition to Cancel.

11. Registrant denies the allegations of paragraph 11 of the Petition to Cancel.

12. Registrant admits that a number of online platforms list postings for short-term jobs. Registrant is without knowledge of and therefore denies the remaining allegations of paragraph 12 of the Petition to Cancel.

13. Registrant is without knowledge of and therefore denies the allegations of paragraph 13 of the Petition to Cancel, except that Exhibit C of the Petition to Cancel appears to reflect uses of GIG and GIGZ that infringe Registrant's service marks GIG and GIGS.

14. Registrant denies the allegations of the paragraph 14 of the Petition to Cancel.

15. Registrant denies the allegations of paragraph 15 of the Petition to Cancel.

16. Registrant denies the allegations of paragraph 16 of the Petition to Cancel.

17. Registrant is without knowledge of the allegations of paragraph 17 of the Petition to Cancel, except that Registrant admits that GIGZ and GIGS are similar.

18. Registrant denies the allegations of paragraph 18 of the Petition to Cancel.

19. Registrant denies the allegations of paragraph 19 of the Petition to Cancel.

20. Registrant incorporates by reference its responses to all previous paragraphs of the Petition to Cancel.

21. Paragraph 21 of the Petition to Cancel is legal argument that is not appropriate in such a pleading under the TTAB Rules of Practice and the Federal Rules of Civil Procedure.

Registrant therefore denies and moves to strike said paragraph from the Petition to Cancel.

22. Registrant denies the allegations of paragraph 22 of the Petition to Cancel.

23. Registrant denies the allegations of paragraph 23 of the Petition to Cancel.

24. Registrant denies the allegations of paragraph 24 of the Petition to Cancel.

25. Registrant is without knowledge of and therefore denies the allegations of paragraph 25 of the Petition to Cancel.

26. Registrant denies the allegations of paragraph 26 of the Petition to Cancel.

27. Registrant denies the allegations of paragraph 27 of the Petition to Cancel.

28. Registrant denies the allegations of paragraph 28 of the Petition to Cancel.

29. Registrant denies the allegations of paragraph 29 of the Petition to Cancel.

30. Registrant denies the allegations of paragraph 30 of the Petition to Cancel.

31. Registrant denies paragraph 31 of the Petition to Cancel.

32. Registrant incorporates by reference its responses to all previous paragraphs of the Petition to Cancel.

33. Registrant denies the allegations of paragraph 33 of the Petition to Cancel.

34. Paragraph 34 of the Petition to Cancel is legal argument that is not appropriate in such a pleading under the TTAB Rules of Practice and the Federal Rules of Civil Procedure.

Registrant therefore denies and moves to strike said paragraph from the Petition to Cancel.

35. Paragraph 35 of the Petition to Cancel is legal argument that is not appropriate in such a pleading under the TTAB Rules of Practice and the Federal Rules of Civil Procedure.

Registrant therefore denies and moves to strike said paragraph from the Petition to Cancel.

36. Paragraph 36 of the Petition to Cancel is legal argument that is not appropriate in such a pleading under the TTAB Rules of Practice and the Federal Rules of Civil Procedure.

Registrant therefore denies and moves to strike said paragraph from the Petition to Cancel.

37. Registrant denies the allegations of paragraph 37 of the Petition to Cancel.

38. Registrant denies the allegations of paragraph 38 of the Petition to Cancel.

39. Registrant denies the allegations of paragraph 39 of the Petition to Cancel.

40. Registrant denies the allegations of paragraph 40 of the Petition to Cancel.

41. Registrant denies the allegations of paragraph 41 of the Petition to Cancel.

42. Registrant denies the allegations of paragraph 42 of the Petition to Cancel.

43. Registrant denies the allegations of paragraph 43 of the Petition to Cancel.

44. Registrant denies the allegations of paragraph 44 of the Petition to Cancel.

45. Registrant denies paragraph 45 of the Petition to Cancel.

FIRST AFFIRMATIVE DEFENSE
FAILURE TO STATE A CLAIM

46. The Petition to Cancel fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE
UNCLEAN HANDS

47. Petitioner intentionally adopted, is using, and has attempted to register a mark, GIGZ, which is confusingly similar to and, indeed, virtually replicates Registrant's marks GIG and GIGS, the registrations for which Petitioner seeks to cancel in this proceeding.

48. The services for which Petitioner is using and has attempted to register the infringing mark GIGZ are highly related to, and are directly competitive with, the services which Registrant offers under its marks GIG and GIGS.

49. Petitioner was aware of Registrant's marks at the time Petitioner adopted its mark.

50. Petitioner has acted maliciously in launching a business that copies a business concept pioneered by Registrant which seeks to trade off the goodwill and reputation of Registrant's marks by using a mark, GIGZ, that is confusingly similar to Registrant's marks GIG and GIGS. Such actions are likely to confuse and mislead the public into believing that Petitioner and its services are somehow related to Registrant.

51. Petitioner's actions constitute intentional service mark infringement and unfair competition under the Trademark Act, 15 U.S.C. §§ 1051, et seq.

52. The Petition to Cancel was filed in furtherance of Petitioner's aforementioned intentional wrongful conduct and scheme.

53. Accordingly, the Petition to Cancel is barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE
LACHES AND ACQUIESCENCE

54. Petitioner was aware of Registrant's marks and registrations several years prior to Petitioner's filing of the Petition to Cancel, yet took no action to cancel or otherwise challenge Registrant's marks or registrations.

55. Accordingly, the Petition to Cancel is barred by the doctrines of laches and acquiescence.

In view of the foregoing, it is hereby requested that the Petition to Cancel be dismissed.

Respectfully submitted,

Fiverr International Ltd.

By:



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October 3, 2013

Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer is being served on Registrant's counsel via first class mail, postage prepaid, this third day of October, 2013, addressed to:

Diane Artal
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